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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,030	05/18/2006	Roland Steffen	0102-1035	3912
30671 7590 12/28/2007 DITTHAVONG MORI & STEINER, P.C. 918 Prince St. Alexandria, VA 22314			EXAMINER AKBAR, MUHAMMAD A	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/563,030	Applicant(s) STEFFEN ET AL.	
	Examiner Muhammad Akbar	Art Unit 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN SIX MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-10.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argues on pages 5-6 that Weiler et al does not disclose "the processed input data originates from the measuring -device unit". The examiner respectfully disagrees. In Fig. 4 and 5 Weiler et al discloses processing input data in the receiver module (3 of fig.4) generating from central monitoring unit (5) (see fig.5) (i.e. measuring-device unit), wherein scanning data by frequency scanner (18 of fig.5) (i.e. process received data and form a bit stream (digital form) for transmission) and evaluates the received interference signal which is communicating through data bus transmitting unit (19) via digital data bus line (4) (since receiver module (3) transmitted digital data to control monitoring unit (5), so there is a digital interface exists) (see fig.4,5 and col.3 lines 5-13, col.4 lines 53-67, col.5 lines 10-32, col.6 lines 23-33).

Applicant refer specification page 11 line 30 through page 12 line 19 " bitstream is only modulated by the high - frequency module 24 and then transmitted. The necessary processing of the signals from the input data is still implemented in the measuring -device unit through the input data for transmission via the digital interface". Therefore, it is clear that input data is received by the high frequency module (3) and form digital bitstream and transmitted to the measuring device unit (2) via digital interface (spec. page 12 lines 5 -29). However, applicant's argues and emphasises that "originating from the measuring unit" whereas examiner could not find such claim limitation " originating from the measuring-device unit " supported by the disclosure, if Applicant believes otherwise. Therefore, the rejection is maintained.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established' by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the teaching, suggestion, or motivation was found in the references themselves and in the knowledge generally available to one of ordinary skill in the art. As stated in the last Office Action, and repeated herein , it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the high frequency signal measurement system comprises device under test (computer), a central monitoring unit i.e. measuring -device unit and at least one high-frequency module which is separated from the central monitoring unit and connected to the monitoring unit via digital data bus (as taught by Weiler) by incorporating transceiver processor for separating I-Q phase which can be transmitted to the calibration apparatus and transceiver also can transmit baseband or digitized intermediate frequency (IF) signal via digital interface (as taught by Vassiliou) to obtain more accurate performance of frequency measurement system by using digital calibration method and multi path transmission system (see para [0017],[0069])



12-12-07

LANA LE
PRIMARY EXAMINER